

**CASA FILIPINA DEVELOPMENT CORPORATION, PETITIONER, VS.
THE DEPUTY EXECUTIVE SECRETARY, OFFICE OF THE PRESIDENT,
MALACAÑANG, MANILA, AND JOSE VALENZUELA, JR.,
RESPONDENTS.**

G.R. No. 96494. May 28, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari (treated as a petition for certiorari) seeking reversal of the decision of the Office of the President dated April 11, 1989, in O.P. Case No. 3722, entitled “Casa Filipina Development Corporation, Respondent-Appellant, v. Jose Valenzuela, Jr., Complainant-Appellee,” which affirmed the decision of the Housing and Land Use Regulatory Board dated October 6, 1987; and its resolution dated September 26, 1989, which denied the motion for reconsideration for lack of merit.

The antecedent facts are, as follows:

On June 30, 1986, private respondent Jose Valenzuela, Jr. filed a complaint against petitioner Casa Filipina Development Corporation before the Office of Appeals, Adjudication and Legal Affairs (OAALA) of the then Human Settlements Regulatory Commission (now Housing and Land Use Regulatory Board) for its failure to execute and deliver the deed of sale and transfer certificate of title. He alleged therein that on May 2, 1984, he entered into a contract to sell with petitioner for the purchase of a 120 sq. m. lot denominated as Lot 8, Block 9, Phase II of Casa Filipina, Sucat II, Bo. San Dionisio, Parañaque, Metro Manila, for a total purchase price of P68,400.00 with P16,416.00 as downpayment and the balance of P51,984.00 to be paid in 12 equal monthly installments of P4,915.16 with 24% interest per annum starting September 3, 1984; that on October 7, 1985, he made his full and final payment under O.R. No. 6266; that despite full payment of the lot, petitioner refused to execute the necessary deed of absolute sale and deliver the corresponding transfer certificate of title to him; that since October 1985, he had offered to pay for or reimburse petitioner the expenses for the transfer of the title but the latter refused to accept the same; and that he was constrained to hire a lawyer for a fee to protect his interests.

For petitioner’s defense, it contended that private respondent's action is premature because of his failure to comply with the other conditional requirements of their contract such as payment of transfer expenses, and that had the latter paid said fees, it would have been very much willing to effect the transfer of the title.

On January 21, 1987, the OAALA rendered judgment in favor of private respondent, relying on Section 25 of Presidential Decree No. 957 (Regulating the Sale of Subdivision Lots and Condominiums, Providing Penalties for Violations thereof), which provides:

SEC. 25. Issuance of Title - The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. No fee except those required for the registration of the deed of sale in the Registry of Deeds, shall be collected for the issuance of such title. In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner of or developer shall redeem the

mortgage or the corresponding portion thereof within six months from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer in accordance herewith.

The dispositive portion of its decision reads (p. 19, Rollo):

“WHEREFORE, PREMISES CONSIDERED, judgment is rendered ordering respondent, within 15 days from finality of this decision, to execute the deed of absolute sale for Lot 8, Block 9, Phase II, Casa Filipina, Sucat II, Bo. San Dionisio, Parañaque, Metro Manila in favor of the complainant and thereafter to bill complainant the total amount due for the registration and transfer expenses of the title. Respondent is further ordered, within 15 days from receipt of complainant's payment for registration and transfer expenses, to deliver to the latter the transfer certificate of title of subject lot free from all liens and encumbrances. In the event respondent is unable to deliver the title to the said lot, respondent is hereby ordered to refund (to) complainant his total payments amounting to SEVENTY SIX THOUSAND ONE HUNDRED EIGHTY PESOS and 82/100 (P76,180.82) plus 24% interest per annum from June 30, 1986, the date of the filing of the complaint, until fully paid. Respondent is likewise ordered to pay complainant TWO THOUSAND PESOS (P2,000.00) by way of attorney's fees, for compelling the latter to litigate and incur expenses in the protection of his rights.

“It is SO ORDERED.”

Petitioner then filed an appeal before the Housing and Land Use Regulatory Board. In petitioner's memorandum, it narrated the events that transpired which led to its failure to deliver the title, namely: its original mortgagee bank was Royal Savings Bank which was absorbed by Comsavings Bank apparently due to bankrun; Comsavings Bank is not amenable to petitioner's earlier arrangement with Royal Savings Bank on individual redemption of title, thus, it demanded that petitioner's obligations should be paid prior to the release of any individual title; petitioner cannot seasonably meet such demand due to the inability of the past administration to put up a viable and progressive economic program that brought it into a fix situation wherein it has no participation either intentionally or by negligence.

On October 6, 1987, the HLURB dismissed petitioner's appeal for lack of merit and affirmed in toto the questioned decision of the OAALA (p. 23, Rollo). It opined that (ibid):

“x x x. Suffice it to state that the payment in full by the complainant-appellee of the purchased (sic) price of the lot should warrant the immediate delivery of the title to the lot so purchased. Section 25 of P.D. 957 clearly provides that the redemption by the mortgagor or (sic) any mortgage (sic) property shall be within a period of six (6) months from (the) date of issuance of the title in favor of the buyer. Obviously from the moment full payment is made by the buyer to (sic) his purchased lot, the maximum period contemplated by law for delivery of title is only six (6) months. Within this period it becomes mandatory upon the owner or developer of a subdivision to deliver (the) title to the lot buyer. In the case at bar, full payment was made on October 7, 1985 and despite the lapse of one (1) year more or less from (the) date of full payment, delivery of (the) title is still uncertain.

“The defense of the respondent-appellant that its failure to deliver the title allegedly due to the inability of the past administration to put up a viable and progressive economic program which led to the closure of the Royal Savings Bank as its original mortgagee bank is not well-taken since there is no proof submitted to this Board to substantiate appellant's claim. On the contrary it was only the OAALA decision that made the respondent-appellant change its line of justification which happened to be just an allegation which need not be passed upon by this Board.”

Petitioner appealed further to the Office of the President. Again, on April 11, 1989, its appeal was dismissed for lack of merit and the questioned decision of the HLURB was affirmed (p. 32, Rollo). On September 26, 1989, the motion for reconsideration was denied for lack of merit (p. 36, Rollo). Hence, the present petition, wherein petitioner raises the following issues (pp. 9-10 Rollo):

“1. THE RESPONDENT DEPUTY EXECUTIVE SECRETARY, WITH DUE RESPECT ERRED IN NOT APPLYING SETTLED JURISPRUDENCE AND THE PROVISION OF LAW APPLICABLE IN THIS CASE.

“2. THE RESPONDENT DEPUTY EXECUTIVE SECRETARY, WITH DUE RESPECT, ERRED IN ARRIVING AT A CONCLUSION CONTRADICTIONARY OF (sic) THE FACTS AND EVIDENCE, AMOUNTING TO GRAVE ABUSE OF DISCRETION.”

Mainly, petitioner asseverates that in granting both remedies of specific performance and rescission, public respondent ignored a well-pronounced rule that these remedies cannot be availed of at the same time. There is no evidence showing that private respondent had offered to pay the expenses for the transfer of the title. Furthermore, the amount of 24% interest imposed by the OAALA in case of refund is high and without basis: firstly, HLURB Resolution No. R-421, series of 1988, strictly enjoins the maximum interest to be awarded in case of refund to 12%; secondly, although condition no. 1 of their contract to sell provides for said rate of interest, it merely applies to interest on installment payments but not with respect to refunds; thirdly, since the contract between them is not a forbearance of money or loan, the doctrine laid down in the case of *Reformina v. Tomol, Jr.*, G.R. No. 59096, 139 SCRA 260 applies, that is, except where the action involves forbearance of money or loan, interest which courts may award is only up to 12% (should be 6%). Finally inasmuch as issuance of the title has not yet been effected because of the take over by Comsavings Bank of Royal Savings Bank, the period specified under Section 25 of P. D. No. 957 has not begun to run for the purpose of redemption.

The arguments advanced by petitioner utterly lack merit.

It is plain enough in the OAALA decision that rescission is being ordered only in the event specific performance is not feasible. Moreover, petitioner is already estopped from raising this issue because in its appeal memorandum submitted before the HLURB, it pleaded that (p. 28, Rollo):

“5. Appellant prays that it be given a period/time to redeem title or the demand for issuance of title be suspended from the ComSavings Bank before any deed of absolute sale be executed so that the Transfer Certificate of Title be issued and/or refund be ordered.”

The OAALA found as a fact that “the complainant-appellee was ready, willing and able to pay for the expenses for the transfer of title as stipulated in the Contract to Sell x x x” (p. 22, Rollo). We accord respect and finality to this finding (*Filipinas Manufacturers Bank v. NLRC et al.*, G.R. No. 72805, February 28, 1990, 182 SCRA 848; *Vda. de Pineda, et al. v. Peña, etc., et al.*, G.R. No. 57665, July 2, 1990, 187 SCRA 22).

We adopt the disposition of the Office of the Solicitor General on the correct rate of interest as Our own (pp. 124-125, Rollo):

“The ruling in *Reformina v. Tomol*, it must be underscored, deals exclusively with cases where damages in the form of interest is due but no specific rate has been previously set by the parties. In such cases, the legal interest of 12% per annum must be applied. In the present case, however, the interest rate of 24% per annum was mutually agreed upon by petitioner and private respondent in their contract to sell -- this was the interest rate imposed on private respondent for the payment of the installments on the contract price and there is no reason why this same interest rate should not be equally applied to petitioner which is guilty of violating the reciprocal obligation.

“In *Solid Homes Inc. v. Court of Appeals* (170 SCRA 63 [1989]), a subdivision owner, in violation of their Offsetting Agreement, incurred delay in the delivery of a house and lot to the supplier of the construction materials. On review, the issue of which rate of interest -- the 6% per annum which was then the legal interest or the stipulated interest rate of 12% -- was raised. This Honorable Court ruled:

‘On the matter of interest, we agree with the trial court and the Court of Appeals that the proper rate of interest is twelve (12%) per centum per annum, which is the rate of interest expressly agreed upon in writing by the parties, as appearing in the invoices (Exhibits ‘C’ and ‘D’), and sanctioned by Art. 2209 of the Civil Code, x x x’

(Underscoring supplied)

“It is, thus, evident that if a particular rate of interest has been expressly stipulated by the parties, that interest, not the legal rate of interest, shall be applied.”

Section 25 of P.D. No. 957 imposes an obligation on the part of the owner or developer, in the event the mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, to redeem the mortgage or the corresponding portion thereof within six months from such issuance. We focus Our attention on the period of “six months” to be reckoned “from the issuance of the title.” Supposing there is no such issuance of the title, as in this case, from what event is the six month period to be counted? Or, will this period not begin to run at all unless the title has been issued? The argument of petitioner that the issuance of the title is a prerequisite to the running of the six month period of redemption, fails to convince Us. Otherwise, the owner or developer can readily concoct a thousand and one reasons as justifications for its failure to issue the title and in the process, prolong the period within which to deliver the title to the buyer free from any liens or encumbrances. Additionally, by not issuing/delivering the title of the lot to private respondent upon full payment thereof, petitioner has already violated the explicit mandate of the first sentence of Section 25 of P.D. No. 957. If We were to count the six month period of redemption from the belated issuance of the title, petitioner will have a lot to gain from its own non-observance of said provision. We shall not countenance such absurdity. Of equal importance as the preceding ratiocination are the reasons behind the enactment of P.D. No. 957, as expressed succinctly in its “whereas” clauses, to wit:

“WHEREAS, reports of alarming magnitude also show cases of swindling and fraudulent manipulations perpetrated by unscrupulous subdivision and condominium sellers and operators, such as failure to deliver titles to the buyers or titles free from liens and encumbrances, and to pay real estate taxes, and fraudulent sales of the same subdivision lots to different innocent purchasers for value;

“WHEREAS, these acts not only undermine the land and housing program of the government but also defeat the objectives of the New Society, particularly the promotion of peace and order and the enhancement of the economic, social and moral condition of the Filipino people;

“WHEREAS, this state of affairs has rendered it imperative that the real estate subdivision and condominium businesses be closely supervised and regulated, and that penalties be imposed on fraudulent practices and manipulations committed in connection therewith.”

ACCORDINGLY, the petition is hereby DISMISSED. The decision of the Office of the President dated April 11, 1989 and its resolution dated September 26, 1989 are AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

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